

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THEODORE ERVIN STITH,

Plaintiff,

v.

DARLENE, et al.,

Defendants.

No. 2:21-cv-1478-WBS-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On April 19, 2022, defendants Darlene and Simmons filed a motion for summary judgment. ECF No. 21. On May 25, 2022, the court warned plaintiff that failure to respond to the motion could result in a recommendation that this action be dismissed. ECF No. 24. The time for responding to the motion has passed, and plaintiff failed to file an opposition or otherwise respond to the motion.<sup>1</sup> Plaintiff has disobeyed this court's orders and failed to prosecute this action. The appropriate action is dismissal without prejudice.

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<sup>1</sup> Although it appears from the file that plaintiff's copy of the order was returned, plaintiff was properly served. It is the plaintiff's responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

1 Accordingly, it is RECOMMENDED that this action be dismissed without prejudice. *See*  
2 Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.

3 These findings and recommendations are submitted to the United States District Judge  
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
5 after being served with these findings and recommendations, any party may file written  
6 objections with the court and serve a copy on all parties. Such a document should be captioned  
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
8 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 DATED: July 5, 2022.

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13 EDMUND F. BRENNAN  
14 UNITED STATES MAGISTRATE JUDGE  
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